

**REMARKS**

Favorable consideration and allowance are requested for claims 1-3, 5, 8, and 11 in view of the following remarks.

**Status of the Application**

Claims 1-3, 5, 8, and 11 are pending in this application. Claims 1, 2, 10, and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,958,974 to Prehofer (the “Prehofer patent”) in view of U.S. Patent No. 6,993,013 to Boyd (the “Boyd patent”), and further in view of U.S. Patent Publication No. 2002/0141392 to Tezuka *et al.* (the “Tezuka publication”). (Applicants respectfully note that the Office Action refers to claims 1, 2, 4, and 10-13, but claims 4, 12, and 13 were previously cancelled. The instant reply only addresses the pending claims.) Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Prehofer patent in view of the Boyd patent, the Tezuka patent, and further in view of U.S. Patent No. 7,245,610 to Kalmanek *et al.* (the “Kalmanek patent”). Claims 5 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Prehofer patent in view of the Boyd patent, the Tezuka patent, the Kalmanek patent, and further in view of U.S. Patent Publication No. 2005/00147052 to Wu (the “Wu publication”). Claim 4, 6, 7, 9, 12, and 13 were previously cancelled. Claim 10 has been cancelled by way of the present amendment. Claims 1, 2, and 11 have been amended.

Rejections under 35 U.S.C. § 103(a)

According to the outstanding Office Action, the subject matter of claims 1, 2, and 11 is rendered obvious by the combination of the Prehofer patent, the Boyd patent, and Tezuka publication. In response Applicants respectfully submit that independent claim 1 is directed to a particular method of call admission control and network management functions being performed at the telephone.

In contrast to the subject matter of independent claim 1, the cited prior art does not disclose or suggest these features. Call admission and the management of a call already in transmission are significantly different. In any managed network, once a call is in transmission, there can be a great deal of signaling data available. Signal packet losses and signal packet delays relevant to the call in transmission can be tracked and recorded. This offers an ongoing indication of the real-time quality of service for that call. At call admission, however, none of that is available.

Additionally, the cited prior art is silent on network management techniques being transferred to the telephone. Network management will often depend on a body of signaling data and centralized analysis, but the cited prior art does not disclose or suggest that network management should be incorporated into the telephone.

In particular, although the Prehofer patent may well disclose a form of call admission in that it briefly describes a connection being initiated, it certainly

does not teach or suggest the method of the present invention. Instead, the Prehofer patent is entirely concerned with what happens after call admission, *i.e.*, during transmission. The initiation of a connection is done in an entirely standard way.

In the outstanding Office Action, reference is made to column 5, lines 12-20 in the Prehofer patent. In this portion of the reference, the following is described:

- A subscriber uses his or her subscriber terminal TLN to dial into a network via a pre-existing connection to an access node ZK.
- The subscriber uses software on the terminal TLN, presumably by clicking on a URL, to connect to a service provider's computer DK which provides data services.
- The subscriber requests a video transmission service.
- The data packets associated with the video transmission service are assigned to a mean quality class, *e.g.*, Class B.

At this stage of the process, *i.e.*, initiation of a connection, there is no adjustment of the priority. What follows is simply the start of the transmission. See Prehofer patent at col. 5, lines 35-37 ("At the start of the transmission of the video transmission service, the data packets are thus sent with the quality class B and the priority class 4.").

The Office Action cited Figure 1 and column 5, lines 12-20 of the Prehofer patent against former claim 10, the subject matter of which has been incorporated into amended claim 1. All these portions of the Prehofer patent disclose, however, is an initiating telephone (or subscriber terminal) carrying out standard steps in requesting a service from a data service provider. The

assignment of quality class is not disclosed or suggested as being performed by the subscriber terminal. And there is certainly no disclosure or suggestion of adjustment of the quality class or priority by the initiating telephone.

Further, there is no adjustment of priority before the transmission starts in the Prehofer patent. Adjustment of priority is only done after the transmission starts. It is entirely the transmitting computer DK, *i.e.*, the service provider's computer, that controls changes in quality class, and priority class, during transmission. This is illustrated in column 6, lines 16-22 of the Prehofer patent:

By way of example, a transmission bandwidth of 76 kbit/s obtained at the receiver, e.g. TLN, is acknowledged to the transmitter, e.g. DK, instead of the demanded transmission bandwidth of 100 kbit/s. The transmitter then rearranges the data packets associated with the video transmission service from the priority class 4 into the priority class 5; for example, on the basis of the rules 5 and 6 indicated above.

Nothing in the Prehofer patent discloses or suggests a change of priority before a call is admitted. And nothing discloses or suggests a telephone, or other subscriber equipment, carrying out a change in priority.

The Boyd patent merely discloses data analysis carried out after a call is over and a connection tear-down has been initiated. It does not disclose or suggest either a change in priority being made before a call has even started or that it might be carried out at the telephone. For example, in a portion of the passage cited in the Office Action, it is clear that the analysis performed in the Boyd patent occurs after a call is over: “. . . the signaling message analysis tool 138 determines if excessive packet loss has occurred during the connection.”

Boyd patent at col. 15, lines 20-22. Therefore, one can only determine if excessive packet loss occurred during a connection after the connection is terminated, not before it has started. And, in any event, the signaling message analysis tool 138 is not at the telephone, or other subscriber equipment, but in the network management equipment.

Finally, the Tezuka publication discloses an increase in priority being applied, but it is still during call transmission, not before the call is initiated. Further, it is not the telephone but a gateway that carries out the method.

For at least the foregoing reasons, Applicants respectfully submit that independent claim 1 is patentable over the cited references. And for at least the same reasons, dependent claims 2 and 11 are also patentable.

With respect to claim 3 Applicants respectfully submit that the Kalmanak patent does not disclose or suggest the subject matter of independent claim 1 missing from the Prehofer patent, the Boyd patent, and the Tezuka publication. Therefore, claim 3 is also patentable.

Likewise, with respect to claims 5 and 8, the Kalmanak and Wu patents do not disclose or suggest the subject matter of independent claim 1 missing from the Prehofer patent, the Boyd patent, and the Tezuka publication. Therefore, claims 5 and 8 are also patentable.

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If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 038665.56185US).

Respectfully submitted,

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